

BILL LOCKYER, Attorney General
of the State of California
DAVID M. CARR, State Bar No. 131672
Deputy Attorney General
California Department of Justice
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-5538
Facsimile: (415) 703-5480

Attorneys for Complainant

**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. R-1948

MICHAEL JOSEPH KLAK
1328 Yale Avenue
Stockton CA 95203

**STIPULATED SETTLEMENT FOR
PUBLIC REPRIMAND AND
DISCIPLINARY ORDER**

Respiratory Care Practitioner License No. 9835

Respondent.

In the interest of a prompt and speedy settlement of this matter, consistent with the public interest and the responsibility of the Respiratory Care Board of the Department of Consumer Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will be submitted to the Board for approval and adoption as the final disposition of the Accusation.

PARTIES

1. Stephanie Nunez (Complainant) is the Executive Officer of the Respiratory Care Board of California ("the Board"). She brought this action solely in her official capacity and is represented in this matter by Bill Lockyer, Attorney General of the State of California, by David M. Carr, Deputy Attorney General.

2. Respondent Michael Joseph Klak (Respondent) is represented in this proceeding by attorney Edgardo Gonzalez, whose address is 1300 Clay Street, Suite 600, Oakland, California 94612.

3. On or about October 7, 1985, the Board issued Respiratory Care Practitioner License No. 9835 to Michael Joseph Klak (Respondent). The License was in full force and effect at all times relevant to the charges brought in Accusation No. R-1948 and will expire on February 29, 2008 unless renewed.

JURISDICTION

4. Accusation No. R-1948 was filed before the Respiratory Care Board (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on September 21, 2004. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. R-1948 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. R-1948. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each allegation in Accusation No. R-1948.

9. Respondent agrees that his Respiratory Care Practitioner License is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the

1 Disciplinary Order below.

2 **CIRCUMSTANCES IN MITIGATION**

3 10. Respondent Michael Joseph Klak has been a licensed respiratory care
4 practitioner in California for more than twenty years and has never been the subject of any
5 disciplinary action. He is admitting responsibility at an early stage of the proceedings.

6 **RESERVATION**

7 11. The admissions made by Respondent herein are only for the purposes of this
8 proceeding, or any other proceedings in which the Respiratory Care Board or other professional
9 licensing agency is involved, and shall not be admissible in any other criminal or civil proceedings.

10 **NON-COMPLIANCE WITH ORDER**

11 12. In the event Respondent fails to comply with the terms of this Stipulated
12 Settlement and Disciplinary Order, such failure shall be deemed a violation of Business and
13 Professions Code section 3750, subdivision (g), and the Board, after giving notice and the
14 opportunity to be heard, may take additional disciplinary action against Respondent.

15 **CONTINGENCY**

16 13. This stipulation shall be subject to approval by the Respiratory Care Board.
17 Respondent understands and agrees that counsel for Complainant and the staff of the Board may
18 communicate directly with the Board regarding this stipulation and settlement, without notice to or
19 participation by Respondent or his counsel. By signing the stipulation, Respondent understands
20 and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the
21 time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its
22 Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect,
23 except for this paragraph, it shall be inadmissible in any legal action between the parties, and the
24 Board shall not be disqualified from further action by having considered this matter.

25 14. The parties understand and agree that facsimile copies of this Stipulated
26 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force
27 and effect as the originals.

28 **DISCIPLINARY ORDER**

IT IS HEREBY ORDERED, in consideration of the foregoing representations, that Respondent Michael Joseph Klak, Respiratory Care Practitioner License No. 9835, shall be publicly reprimanded by the Respiratory Care Board of California. This document shall constitute the formal public reprimand and provides that, based on admissions by Respondent in paragraph 8 of the Stipulation, Respondent agrees:

a. No further violation of the law will occur; and

b. He shall pay to the Board costs of investigation and enforcement of this matter in the amount of \$2,240.00, this amount shall be paid in monthly installments within 12 months of the effective date of this Decision.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Edgardo Gonzales. I understand the stipulation and the effect it will have on my Respiratory Care Practitioner License . I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Respiratory Care Board.

DATED: September 19, 2006

Original signed by:
MICHAEL JOSEPH KLAK
Respondent

ENDORSEMENT

I have read and fully discussed with Respondent Michael Joseph Klak the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: September 21, 2006

Original signed by:
EDGARDO GONZALEZ
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Respiratory Care Board of the Department of Consumer Affairs.

DATED: August 9, 2006

BILL LOCKYER, Attorney General
of the State of California

Original signed by:
DAVID M. CARR
Deputy Attorney General
Attorneys for Complainant

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RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. R-1948

MICHAEL JOSEPH KLAK
1328 Yale Avenue
Stockton CA 95203

Respiratory Care Practitioner License No. 9835

Respondent.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Respiratory Care Board, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on November 20, 2006.

It is so ORDERED on November 8, 2006.

Original signed by:
LARRY L. RENNER, BS, RRT, RCP, RPFT
PRESIDENT, RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA